



Child Welfare Information Gateway

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STATE
STATUTES
SERIES

Current Through
February 2005

Placement of Children With Relatives

In order for States to receive Federal payments for foster care and adoption assistance, Federal law requires that they "consider giving preference to an adult relative over a nonrelated caregiver when determining placement for a child, provided that the relative caregiver meets all relevant State child protection standards."¹ (Placement refers to the placing of a child in the home of an individual other than a parent or guardian or in a facility other than a youth services center.) Approximately² 24 States³

¹ 42 U.S.C. 671(a)(19)

² The word *approximately* is used to stress the fact that States frequently amend their laws, so this information is current only through February 2005.

³ Alabama, Alaska, Arkansas, California, Colorado, Georgia, Kansas, Kentucky, Louisiana, Maine, Maryland, Minnesota, Mississippi, Missouri,

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To find information on all the States and territories, order a copy of the full-length PDF by calling 800.394.3366 or 703.385.7565, or download it at www.childwelfare.gov/systemwide/laws_policies/statutes/placementall.pdf

U.S. Department of Health and Human Services
Administration for Children and Families
Administration on Children, Youth and Families
Children's Bureau



Child Welfare Information Gateway
Children's Bureau/ACYF
1250 Maryland Avenue, SW
Eighth Floor
Washington, DC 20024
703.385.7565 or 800.394.3366
Email: info@childwelfare.gov
www.childwelfare.gov

and Puerto Rico give preference or priority to relative placements in their statutes. Approximately five States,⁴ Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands make no reference to placement with relatives pending permanent placement of a child removed from his or her parents' home. The remaining States use statutory language such as "may consider" placement with relatives.

Preference to Relatives

Each State defines "relative" differently, including relatives through blood, marriage, or adoption ranging from the first to the fifth degree. Generally, preference is given to the child's grandparents, followed by aunts, uncles, adult siblings, and cousins. For Indian children, some States (for example, Minnesota, Nebraska, Utah, and Washington) allow members of the child's tribe to be considered "extended family members" for placement purposes.

The main requirements for placement are that the relative be "fit and willing," able to ensure the child's safety, and able to meet the child's needs. Several States⁵ require relatives to undergo a criminal background check that may include all adult members of the household.

Relatives with whom a child is placed for foster care are given preference for permanent placement if reunification with the birth parents is determined not to be in the child's best interest.

Financial Support

Several States (Alabama, Arkansas, Connecticut, Delaware, Florida, Kentucky, Louisiana, Nevada, South Carolina, Tennessee, and Wisconsin) and the District of Columbia have established "kinship care" or "relative caregiver" programs by statute to provide relatives with benefits to help offset the cost of caring for a placed child. Six States (Alabama, Arkansas, Louisiana, Pennsylvania, South Carolina, and Tennessee) address foster care payments for kin caregivers in statutes. In these States, if a relative meets the qualifications for being a foster parent, he

Montana, Nebraska, Nevada, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, Utah, and Washington

⁴ Hawaii, Idaho, Massachusetts, Vermont, and Wyoming

⁵ Alabama, Alaska, California, Connecticut, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, South Carolina, Tennessee, Utah, Washington, and Wisconsin

Adoption by Relatives

or she may receive payments at the full foster care rate and any other benefits available to foster parents, whether in money or services.

A few States (Arkansas, Kansas, Michigan, and Ohio) also give preference to relatives when making adoptive placements. However, in Tennessee, if the child has been placed in foster care with a nonrelative and has been living with the same foster parent for 12 months or longer when he or she becomes available for adoption, the nonrelative foster parent has first preference to adopt.

In approximately 23 States,⁶ when a parent makes a direct placement of the child with a relative, the laws provide for a streamlined adoption process, such as not requiring a preplacement assessment or home study unless specifically ordered by the court. Other States⁷ require that the child have resided with the relative for a period of time or have in some other way established a significant relationship with the relative. Approximately 13 States⁸ require a criminal records check of the adoptive parents and other adult household members.

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code, as well as agency regulations, case law, and informal practices and procedures.

⁶ Alabama, Iowa, Kentucky, Louisiana, Maine, Maryland, Michigan, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Oklahoma, South Carolina, Texas, Utah, Vermont, Virginia, and Wisconsin

⁷ Alabama, California, Colorado, Delaware, Florida, Louisiana, New Hampshire, New Mexico, North Dakota, and American Samoa

⁸ Arkansas, California, Colorado, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, New Hampshire, New Jersey, Texas, Utah, and Vermont